

## HOUSE BILL NO. 195

INTRODUCED BY G. MATTHEWS

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING FARM SCALES; PROVIDING A DEFINITION OF "ON-FARM SCALE"; CLARIFYING THE LICENSE RENEWAL DATE FOR ON-FARM SCALES; CLARIFYING LICENSE RENEWAL PERIODS FOR ON-FARM SCALES AND OTHER WEIGHING DEVICES; PROVIDING FOR LATE FEES FOR DELAYED LICENSE RENEWALS; PERMITTING THE DEPARTMENT OF LABOR AND INDUSTRY TO SEAL AND REMOVE WEIGHING DEVICES FOR FAILURE TO PAY FEES; PROHIBITING USE OF WEIGHING DEVICES REMOVED FROM SERVICE AND SEALED; AMENDING SECTIONS 30-12-101, 30-12-203, AND 50-50-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 30-12-101, MCA, is amended to read:

**"30-12-101. Definitions.** Unless the context requires otherwise, in parts 1 through 5 of this chapter the following definitions apply:

(1) "Barrel", when used in connection with fermented liquor, means a unit of 31 gallons.

(2) "Commerce", "trade", or "commercial" means a monetary or value exchange between parties for merchandise or services.

(3) "Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive of any auxiliary shipping container enclosing packages that individually conform to the requirements of parts 1 through 5. An individual item or lot of any commodity not in a consumer package form or nonconsumer package form, but on which there is marked a selling price based on an established price per unit of weight or of measure, is a commodity in package form.

(4) "Consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.

(5) "Cord", when used in connection with wood intended for fuel purposes, means the amount of wood that is contained in a space of 128 cubic feet when the wood is ranked and well stowed.

(6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(7) "Intrastate commerce" means any commerce or trade that is begun, carried on, and completed wholly in this state, and the phrase "introduced into intrastate commerce" defines the time and place at which the first sale and delivery of a commodity is made in this state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(8) "Nonconsumer package" or "package of nonconsumer commodity" means a commodity in package form other than a consumer package and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

(9) "On-farm scale" means a scale that is permanent or mobile, located on a farm or ranch, and used primarily by the owner or operator of the farm or ranch. An on-farm scale may be a livestock scale used for the weighing of live animals, a vehicle scale used for weighing grain, hay, or other field crops, or a combination livestock and vehicle scale.

~~(9)~~(10) "Person" includes individuals, partnerships, corporations, companies, societies, and associations.

~~(10)~~(11) "Sell" and "sale" include but are not limited to barter and exchange.

~~(11)~~(12) "Ton" means a unit of 2,000 pounds avoirdupois weight.

~~(12)~~(13) "Weight", when used in connection with any commodity, means net weight.

~~(13)~~(14) (a) "Weight", "measure", and "weights and measures" mean all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with those instruments and devices. The terms do not include meters for the measurement of electricity, gas (natural or manufactured), or water when they are operated in a public utility system. The provisions of parts 1 through 5 do not apply to electricity, gas, or water meters operated in a public utility system or to any appliances or accessories associated with them.

(b) The terms do not include time measuring devices by which products or services are sold."

**Section 2.** Section 30-12-203, MCA, is amended to read:

**"30-12-203. Licensing of weighing devices.** (1) A person may not knowingly operate or use an

unlicensed weighing device in trade or commerce for ascertaining the weight of any commodity.

(2) A license must be obtained by ~~making application applying~~ to the department upon ~~blank forms to~~  
~~be a form~~ provided by the ~~division of weights and measures department~~. Each license must require at least one  
 inspection ~~per a~~ year.

(3) An application must be accompanied by the proper fee as established by this section except that  
 fees may be paid by credit card and may be discounted for payment processing charges paid by the department  
 to a third party.

#### WEIGHING DEVICES

Capacity	Fees
499 pounds or less	\$12.00
500 pounds through 1,999 pounds	20.00
2,000 pounds through 7,999 pounds	40.00
8,000 pounds through 60,000 pounds	100.00
60,001 pounds or more	175.00

(4) The capacity of a weighing device must be determined by the manufacturer's rated capacity.

(5) ~~(a)~~ All licenses ~~must be~~ are annual and, except for those described in subsection (5)(b), expire on  
 the anniversary date established by rule by the board of review established in 30-16-302.

(b) Licenses for on-farm scales expire at the end of the calendar year.

(6) (a) A late renewal fee equal to 50% of the renewal license fee established in subsection (3) must  
 be assessed if the fee is not paid;

(i) for on-farm scales, before the first day of the sixth month of the year in which the license fee is due;

or

(ii) for all other licenses, within 60 days of the anniversary date.

(b) If the fee is not paid by the respective due date listed in subsection (6)(a), the weighing device may  
 be sealed and removed from service by the department.

(c) A person failing to pay the renewal license fee before the first day of the sixth month of the year in  
 which the license fee is due forfeits the right to use the weighing device, and it must be taken out of service by  
 the division of weights and measures until the renewal fee and late renewal fee are paid may not use a weighing  
 device that has been removed from service or break the seal on a device removed from service until all fees

1 have been paid.

2 (7) The fees must be deposited to the state special revenue fund of the department for use in the  
3 administration and enforcement of this part."

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5 **Section 3.** Section 50-50-207, MCA, is amended to read:

6 **"50-50-207. Expiration date of license.** (1) Except as provided in subsection (2), licenses expire on  
7 December 31 following the date of issue unless canceled for cause.

8 (2) License renewals provided for in 16-11-122, 30-12-203(5)(a), ~~50-50-207~~ 50-50-201, 80-7-106, and  
9 82-15-105 expire on the anniversary date established by rule by the board of review established in 30-16-302."

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11 NEW SECTION. **Section 4. Effective date -- applicability.** [This act] is effective on passage and  
12 approval and applies to weighing devices licensed or renewed on or after [the effective date of this act].

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